IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No.35 of 1998
Date of decision:22.11.2006

The Commissioner of Income Tax, Jalandhar

....Petitioner

versus

M/s Bhagwati Rubber & Chemicals, Jalandhar

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Dr. N.L.Sharda, Advocate, for the petitioner.

JUDGMENT:

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar, (for short, 'the Tribunal') arising out of its order dated 23.12.1997 in ITA No.622(ASR)/1991, for the assessment year 1989-90:-

> "Whether, on the facts and circumstances of the case, the Ld. ITAT was right in law by giving finding that the addition in capital accounts of the partners does not constitute cash credit of the firm whereas the same will constitute the investment of the individual partner to be looked into the individual assessment?"

The Assessing Officer made addition on account of unexplained credit appearing in the capital accounts of the partners of the assessee firm. The CIT(A) gave part relief out of the addition but the Tribunal allowed the appeal of the assessee and held that addition in capital accounts of the partners did not constitute cash credit of the firm and the same will constitute investment of the partners to be looked into in their individual assessments.

We have perused the findings recorded.

We are of the view that the finding recorded by the Tribunal

that the partners having admitted the investment made, if the same was disputed, matter had to be gone into in the individual assessments of the partners and not in the hands of the firm.

The same view has been taken by this Court, inter-alia, in **CIT, Chandigarh-II v. M/s. Metal & Metals of India, Mohali,** ITA No.370 of 2006, decided on 6.11.2006.

In view of the above, the question referred is answered against the revenue and in favour of the assessee.

Reference is disposed of accordingly.

(Adarsh Kumar Goel)
Judge

November 22, 2006 (Rajesh Bindal)
'gs' Judge